

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
SCANSOFT, INC.,)	
)	
Plaintiff,)	
)	
v.)	C. A. No. 04-10353-PBS
)	
VOICE SIGNAL TECHNOLOGIES, INC.,)	
LAURENCE S. GILICK, ROBERT S.)	
ROTH, JONATHAN P. YAMRON, and)	
MANFRED G. GRABHERR,)	
)	
Defendants.)	
_____)	

AFFIDAVIT OF ROBERT S. FRANK, JR.

I, Robert S. Frank, Jr., on oath depose and say

1. I am counsel to defendant Voice Signal Technologies, Inc.
2. Attached as Exhibit A are the parties' letters proposing experts to be selected by the Court.
3. ScanSoft identified three potential court-appointed experts, Timothy J. Hazen, Lee Hetherington and D. Scott Cyphers. It did not disclose their affiliations. A computerized search reveals that all three are members of the "research staff" at the Spoken Language Systems Group at MIT.
4. There appears to be a long association between the Spoken Language Systems Group at MIT and ScanSoft, ScanSoft's predecessors and ScanSoft's senior personnel. Michael Phillips is ScanSoft's Chief Technology Officer. ScanSoft's website states that Mr. Phillips

spent seven years as a research scientist at the Spoken Language Systems Group at MIT. Exhibit B.

5. Mr. Phillips was designated by ScanSoft as a Rule 30(b)(6) witness in this case. He testified that from 1987 to 1994 he was a research scientist at MIT and that the subject of his research was speech recognition technology. He further testified that, in 1994, he founded a company, then called Altech, and later named SpeechWorks. Mr. Phillips became Chief Technology Officer of SpeechWorks in 1998. Exhibit C. SpeechWorks was acquired by ScanSoft in 2003. Mr. Phillips then became, and he remains, ScanSoft's Chief Technology Officer.

6. Attached as Exhibit D is an excerpt from SpeechWorks website as it appeared in 1999. It states that SpeechWorks "was founded with technology licensed from the Spoken Language Systems Group" of the MIT, that SpeechWorks has "commercialized" technology developed at MIT, and that SpeechWorks "continues to collaborate closely with MIT to improve its award winning products and solutions." Readers are invited to click on the website for MIT's Spoken Language Systems Group.

7. If one clicks on that website one obtains a listing of Spoken Language Systems Group staff at the time of that "close collaboration." ScanSoft's proposed experts, Messrs. Cyphers, Hazen and Hetherington, are identified as three of the eight members of the Spoken Language Systems Group "research staff." Michael Phillips is identified as "emeritus" staff. Exhibit E. The Court may confirm these facts by going to <http://www.archive.org/>, entering the web address <http://www.speechworks.com> and clicking on the entry for February 29, 2000.

8. As of late last week, the Spoken Language Systems Group's website listed Messrs. Cyphers, Hazen and Hetherington as "research staff" and Mr. Phillips as an emeritus member of the staff. Exhibit F.

9. The same website displays ScanSoft's logo and states ScanSoft is an "SLS Affiliate Member." The website states that SLS' research is "sponsored by" and receives "funding from" ScanSoft. Exhibit G.

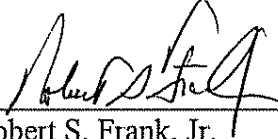
10. Attached as Exhibit H is my correspondence with ScanSoft's counsel proposing criteria to be used in the selection of a court-appointed expert, as well as ScanSoft's response rejecting those proposed criteria.

11. Voice Signal proposed the following as experts:

- a. Frederick Jelinek - Professor of Electrical Engineering and Director of Center for Language and Speech Processing, Johns Hopkins University. See Exhibit I.
- b. Nelson Morgan - Professor in the Electrical Engineering and Computer Science Department, University of California at Berkley; Director, International Computer Science Institute ("ICSI"), an affiliate of the University of California at Berkeley, and leader of the Speech Group at ICSI. See Exhibit J.
- c. Hermann Ney - Chair of Computer Science VI, Human Language Technology and Pattern Recognition, and Professor of Computer Science, RWTH Aachen (University of Technology), Germany. See Exhibit K.
- d. Charles Wayne - Retired speech and language program manager, Defense Advanced Research Projects Agency. (No biographical materials were located by computer search).
- e. Phil Woodland - Professor of Information Engineering, and Coordinator of the Speech Research Group, University of Cambridge, England. See Exhibit L.

Each is a widely known, respected expert in the speech recognition field. Each is believed to have substantial experience with Hidden Markov Model-based speech recognition systems. None is affiliated in any way with Voice Signal. The biographical materials that are attached as Exhibits I-L were obtained by computer search. They were not provided by the proposed experts themselves, because no contact has been made with those experts.

Signed under the pains and penalties of perjury this 18th day of July, 2005.



Robert S. Frank, Jr.

3959205_1

Exhibit A

CHOATE, HALL & STEWART LLP

EXCHANGE PLACE

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July 14, 2005

VIA FACSIMILE

Lisa M. Fleming, Esq.
Bromberg & Sunstein LLP
125 Summer Street
Boston, MA 02110-1618

RE: ScanSoft, Inc. v. Voice Signal Technologies, Inc. et al

Dear Lisa:

Herewith Voice Signal's list of proposed court appointed experts:

- 1) Frederick Jelinek -- Professor of Electrical Engineering and Director of the Center for Language and Speech Processing, Johns Hopkins University;
- 2) Nelson Morgan -- Director of The International Computer Science Institute, a not-for-profit research laboratory that is affiliated with the University of California - Berkeley;
- 3) Hermann Ney -- Professor of Computer Science, RWTH Aachen (University of Technology), Germany;
- 4) Charles Wayne -- Retired speech and language program manager, Defense Advanced Research Projects Agency; and
- 5) Phil Woodland -- Professor of Information Engineering, Cambridge University.

We have included five experts on the list because we have not spoken to any of them and therefore do not know whether they are available for, and would accept, the assignment. We reserve the right to withdraw a name if any of these proposed experts has a business or personal relationship with ScanSoft or a ScanSoft person.

Lisa M. Fleming, Esq.
July 14, 2005
Page 2

If there is no match between the names listed above and the names that appear in your comparable letter, are any of the persons listed above acceptable to ScanSoft?

Very truly yours,

A handwritten signature in black ink, appearing to read "Bob", written in a cursive style.

Robert S. Frank, Jr.

RSF:mm

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July 14, 2005

VIA FACSIMILE

Robert S. Frank, Esq.
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Exchange Place
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Boston, MA 02109-2809

Re *ScanSoft, Inc. v. Voice Signal Technologies, Inc., et al.*, Civil Action No. 04-10353 PBS
Our File 2639/509

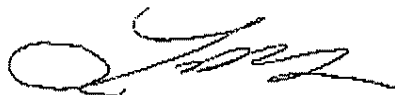
Dear Bob:

ScanSoft offers the following individuals to serve as possible neutral experts in the above-referenced matter, all of whom have positions with MIT's Spoken Language Systems Lab:

1. Lee Hetherington;
2. Timothy James Hazen; and
3. D. Scott Cyphers.

Although we have not contacted these individuals, it appears from public sources that each of the three individuals have broad-based experience in computer science and speech recognition. Please let me know if any of these individuals are acceptable to your clients.

Very truly yours,



Lisa M. Fleming

LMF/
02639/00509 418185

Exhibit B

Rich joined the company in May 2000, and is responsible for all corporate development activities, including strategic merger and acquisition prospecting, integration and management. Previously chief financial officer for ScanSoft, his background spans diverse financial assignments at Xerox Corporation. Prior to joining ScanSoft, his position of director of corporate development and was instrumental in Xerox's \$5 acquisition of the color print division of Tektronix Corporation, and worked in a financial management positions at Xerox including vice president of business at Xerox Financial Services, Inc., corporate assistant treasurer, and manager of product Xerox' Latin-American Operations.

Michael S. Phillips

Chief Technology Officer

Mike is responsible for technical innovation and the evolution of ScanSoft's speech. With over 20 years in the speech recognition field, Phillips co-founded SpeechWorks served as Chief Technology Officer and a Director since 1994. He spent seven years as Research Scientist at the Spoken Language Systems Group at the Massachusetts Institute of Technology, developing a conversational interface between computers and humans. At MIT, he was a speech recognition researcher at Carnegie-Mellon University and Instruments Corporation. Phillips holds a BS in Electrical Engineering from Carnegie Mellon University.

Akos Reszler

Senior Vice President of Budapest Operations

Akos is responsible for ScanSoft-Recognita Corp. Located in Budapest, the company serves as an engineering hub. Dr. Reszler has been with the company since February 2001. His positions include Managing Director of SCIL, a hardware and software development, manufacturing and trading company and Vice President of Technical Services for computer research and development institute, both in Hungary. Previous to this position, he was a computer development engineer. By profession Dr. Reszler is an electrical engineer with a Masters of Science and Ph.D. in Electronics and Computer Sciences.

Larry Rowland

Senior Vice President, Chief Information Officer

Larry joined the company as Chief Information Officer in June of 2002 and has overall responsibility for IT strategic planning, infrastructure, application systems and IT operations worldwide. He has over 21 years experience in information technology and over 10 years as CIO with rapid growth and high tech companies such as Macromedia, Allaire, Telex, Faneuil, and Thomson Global Markets. Larry also has nearly 10 years experience with Accenture and Fortune 100 PepsiCo.

Robert J. Weideman

Senior Vice President, Marketing and Product Strategy, Productivity Applications

Robert Weideman leads the global marketing, product marketing and product strategy for ScanSoft's Productivity Applications division. From 1999 until 2001 Weideman was president of marketing for the Adobe Systems' portfolio company Cardiff Software, an instrumental role in the invention of LiquidOffice™ and establishing the W3C XML standard. From 1991 to 1999, Weideman was vice president of marketing for Time Warner helping to establish the Internet 3D standard VRML, and to deliver the world's first browser, WebSpace™ Navigator. From 1984 to 1991, he held senior product and management positions at Computer Associates International. Weideman holds a BS in Business Administration, Computer Information Systems from San Diego State University.

Peter Mahoney

Vice President, Worldwide Marketing, SpeechWorks Solutions

Peter Mahoney leads the global marketing efforts for SpeechWorks Solutions from including overall marketing strategy, external communications, customer program and industry marketing. A seasoned and well-known marketing executive, Mahoney

Exhibit C

1 (Exhibit No. 1 marked for
2 identification.)

3 P R O C E E D I N G S

4 (The Massachusetts driver's license
5 number as identification of the deponent
6 was noted for the record.)

7 WHEREUPON,

8 MICHAEL PHILLIPS,

9 having duly sworn or affirmed that his
10 testimony would be the truth, the whole truth,
11 and nothing but the truth, testified as
12 follows:

13 DIRECT EXAMINATION

14 BY MR. FRANK:

15 Q. Good morning, sir. Would you state
16 your name for the record, please.

17 A. Michael Phillips.

18 Q. Where do you live, Mr. Phillips?

19 A. In Belmont, Massachusetts.

20 Q. Street address, please?

21 A. 39 Howells Road, in Belmont.

22 Q. Are you presently employed?

23 A. Yes.

24 Q. By whom are you employed?

1 A. ScanSoft.

2 Q. What is your position with ScanSoft?

3 A. Chief technology officer.

4 Q. How long have you held that position?

5 A. Since August 2003.

6 Q. And what are your duties as chief

7 technology officer of ScanSoft?

8 A. Overlooking technology development

9 within the company.

10 Q. Would you take just a moment and tell
11 us your educational background, beginning with
12 college?

13 A. Bachelor of science from Carnegie
14 Mellon University.

15 Q. When?

16 A. Graduated in 1982.

17 Q. Graduate degrees?

18 A. No.

19 Q. Any formal education after college?

20 A. Some master's program at MIT, but I did
21 not complete that.

22 Q. After you graduated from Carnegie
23 Mellon, what did you do?

24 A. I worked at a company called Scott

1 Instruments.

2 Q. What position did you hold at Scott
3 Instruments?

4 A. I don't remember the title, but it was
5 software development for speech recognition.

6 Q. How long were you at Scott Instruments?

7 A. Just one year.

8 Q. From when to when?

9 A. Well, '82 until '83.

10 Q. What did you do next?

11 A. I was a research scientist at Carnegie
12 Mellon University.

13 Q. What was the subject matter of your
14 research?

15 A. Also speech recognition technology.

16 Q. How long did you do that?

17 A. Until 1987.

18 Q. What did you do next?

19 A. At MIT, I was a research scientist at
20 MIT.

21 Q. What was the subject matter of the
22 research?

23 A. Also speech recognition technology.

24 Q. And how long were you a research

1 scientist at MIT?

2 A. Until 1994.

3 Q. What did you do beginning in 1994?

4 A. I founded a company. It was called
5 Altech at the time, but we changed the name to
6 SpeechWorks, same company.

7 Q. Changed the name to what?

8 A. SpeechWorks.

9 Q. What position did you hold initially at
10 Altech?

11 A. Vice-president of engineering.

12 Q. Did you continue to hold that position
13 throughout the time that you were employed by
14 Altech, later SpeechWorks?

15 A. No. My role changed to chief
16 technology officer, I think about 1998 or so.

17 Q. And were you a founder of Altech?

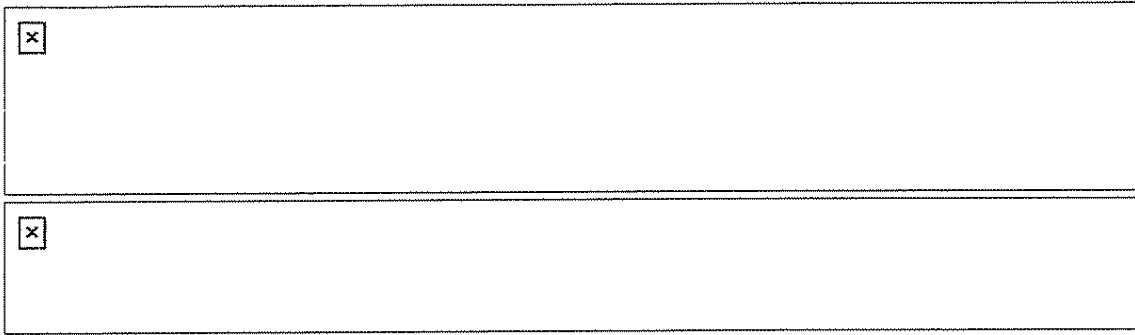
18 A. Yes.

19 Q. What was the business of
20 Altech/SpeechWorks?

21 A. Primarily telephone-based speech
22 recognition, and later, text-to-speech, and
23 also automotive speech recognition.

24 Q. So text-to-speech?

Exhibit D



MIT Technology at Core of SpeechWorks Solution

SpeechWorks International was founded in 1994 with technology licensed from the Spoken Language Systems Group of the Massachusetts Institute of Technology (MIT). The goal of MIT's Spoken Language Systems Group is to create technology that makes it possible for everyone in the world to interact with computers via natural, spoken language.

Our Relationship:

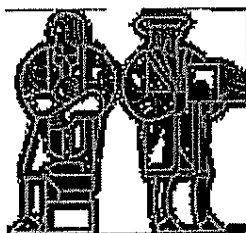
For well over a decade, ARPA (the U.S. Government's Advanced Research Projects Agency) has supported a significant amount of research directed at improving the capabilities of computer speech recognition and understanding systems. The Massachusetts Institute of Technology, with ARPA support, has conducted speech recognition research with a focus on systems that do not require speaker-specific training, can operate with large vocabularies and relatively unconstrained grammars, accept continuous speech and support natural language understanding. Through a licensing agreement with MIT, SpeechWorks has commercialized and enhanced this technology by expanding on the core technology to offer a full set of tools, platforms, and applications. SpeechWorks continues to collaborate closely with MIT to improve its award-winning products and solutions.

Key Benefits:

- MIT is the leader in speech research efforts, and continues to develop key advances in speech recognition technology
- The relationship has allowed SpeechWorks to leverage this world-leading research and offer customers the most advanced, most accurate speech recognition system available

For more information on MIT's Spoken Language Systems Group, visit their website at
<http://web.archive.org/web/19991003221234/http://www.sls.lcs.mit.edu/>

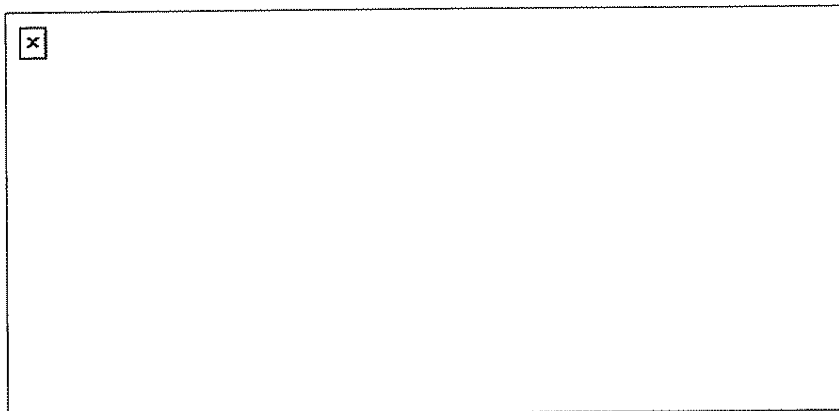
Exhibit E



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- [Lee Hetherington](#)
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Exhibit F

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Exhibit G

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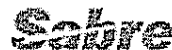
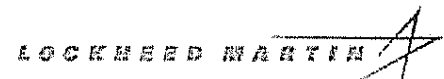
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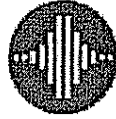
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Exhibit H

Murphy, Marilyn

From: Murphy, Marilyn
Sent: Wednesday, July 13, 2005 5:25 PM
To: 'lfleming@bromsun.com'
Cc: Frank, Robert S.
Subject: Message sent on behalf of Robert Frank

Lisa:

We are willing to proceed substantially as you have proposed with respect to the identification of prospective experts.

As you have proposed, the parties would simultaneously exchange lists containing the names of three or four persons who might serve as the court appointed expert with respect to the review of source code and other related trade secret issues. The exchange would occur simultaneously, sometime tomorrow (Thursday). If one person appeared on both lists, that person would, subject to his or her availability, be selected as the expert. In the absence of a match, the lists would be submitted to the court, along with a brief description of the qualifications of the proposed expert. Each party would be free to argue for or against the selection of a particular expert.

In addition to the foregoing, we believe that qualified candidates should meet the following criteria. We ask that you agree. I doubt that these criteria will be this controversial.

The expert:

1. must not be, or have ever been, employed by or a consultant or advisor to either party or their predecessors;
2. must not have a financial or familial relationship with any present or recent past employee of either company;
3. must have proven ability to read and understand software code (written in C and C++);
4. must have ten years' experience in fundamental speech recognition algorithm development (as opposed to user interface or speech application development);
5. should have a Ph.D. in speech recognition or a related statistical mathematics' field;
6. should be employed in, or retired from, a position in academics or government; and
7. should have published, reasonably extensively, in the area of fundamental speech recognition technology.

All contacts by either party with a proposed expert relating to this case must be fully disclosed.

Please respond promptly.

Bob

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July 13, 2005

VIA FACSIMILE AND FIRST CLASS MAIL

Robert S. Frank, Esq.
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Exchange Place
53 State Street
Boston, MA 02109-2809


Re *ScanSoft, Inc. v. Voice Signal Technologies, Inc., et al.*,
Civil Action No. 04-10353 PBS
Our File 2639/509

Dear Bob:

In response to the electronic mail message I just received from Marilyn Murphy of your office, the additional criteria you propose for selection of neutral expert candidates are unnecessary and unworkable. It appears from the narrow criteria you propose that you indeed have someone specific in mind and may have already contacted that individual in connection with this case. Alternatively, your proposed criteria serve only to rule out any and all candidates from consideration, thus making the process a non-starter. Since your insistence on these narrow criteria violates any notion of cooperation, we reject your disingenuous attempt to thwart this process.

We have already agreed that in the event we cannot agree on one of the names on our respective lists, we can submit them to the Court and state our objections regarding any of the candidates' credentials. Please let's just exchange lists today to get the process started.

Very truly yours,



Lisa M. Fleming
LMF/02639/00509 418022 1

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July 13, 2005

VIA FACSIMILE

Lisa M. Fleming, Esq.
Bromberg & Sunstein LLP
125 Summer Street
Boston, MA 02110-1618

RE: ScanSoft, Inc. v. Voice Signal Technologies, Inc., et al.

Dear Lisa:

We will exchange lists tomorrow.

The criteria that I proposed were not "narrow." They do not "rule out any and all candidates from consideration," and they were not designed to suggest a particular person. I gather from the intensity of your response that you are not willing even to discuss selection criteria. Let me know if I have misread you.

We have not contacted any of the people we will propose. I hope (and will insist) that you can say the same.

Sincerely yours,



Robert S. Frank, Jr.

RSF:sp

Exhibit I

JULIAN S. SMITH ENDOWED PROFESSORSHIP IN ELECTRICAL ENGINEERING

Established in 1996 by the Smith family in memory of Julian S. Smith

Baltimore broadcast pioneer JULIAN S. SMITH (*seated, center*), Engr 1952, had a diverse background in satellites, missiles, and electronics before entering broadcasting in 1958, the year he applied for his first FM radio station license. He later founded the Sinclair Broadcast Group with his wife, CAROLYN SMITH, and sons (*pictured from left*) DUNCAN SMITH, FRED SMITH, ROBERT SMITH, and DAVID SMITH. In 1971, Mr. Smith launched WBFF-TV, now known as Fox-45. Today, the Sinclair Broadcast Group owns, operates, or provides programming for television stations that deliver information to 24 percent of the population of the United States. Julian Smith died in 1993 at the age of 72.



FREDERICK JELINEK, the Julian S. Smith Endowed Professor of Electrical Engineering, directs the Center for Language and Speech Processing, established in 1992 with federal support to promote research and education in the science of language and speech. Dr. Jelinek's research focuses on speech recognition, statistical methods of natural language processing, and information theory. A Life Fellow of the Institute of Electrical and Electronics Engineers,

he was recognized in 1981 as one of the top 100 innovators by *Technology Magazine*. In 1988 he received the IEEE Signal Processing Society Award for his leadership and contributions to the field, and in 1999 he was awarded the European Speech Communication Association's Medal for Outstanding Scientific Achievement. Dr. Jelinek joined the

faculty in 1993.

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Named Professorships, Deanships, and Directorships
The Johns Hopkins University

Exhibit J

Nelson Morgan



Nelson Morgan is the Director of the International Computer Science Institute (ICSI), an independent not-for profit research laboratory that is closely affiliated with UC Berkeley. In addition to directing the Institute he has led the Speech Group at ICSI since 1988. He is also a Professor-in-residence in the EECS Department at the University of California at Berkeley, where he received his Ph.D. as an NSF Fellow in 1980. He has been working on problems in signal processing and pattern recognition since 1974, with a primary emphasis on speech processing. He may have been the first to use neural networks for speech classification in a commercial application, and to incorporate time-frequency distributions for event-related potentials (brain waves). He is a former Editor-in-chief of Speech Communication, and has been a member of the IEEE Speech Technical Committee and the IEEE Neural Networks Committee. He is also a Fellow of the IEEE. In 1997 he received the Signal Processing Magazine best paper award. Currently he is the Principal Investigator for the multi-site coalition funded by the DARPA EARS Novel Approaches project, which is the US government program focusing on long term progress in speech recognition.

Professor Morgan has been the US representative on a number of collaborations with European researchers, including several European Union projects. As Director (since 1999), he is responsible for ICSI's visitor programs with other countries, particularly Finland, Spain, Germany, and Switzerland. He is also on the Scientific Advisory Board for IDIAP, a Swiss research institute.

Professor Morgan has over 150 publications including three books; his most recent book is a text (written jointly with Ben Gold) on speech and audio signal processing. He holds a number of patents in speech processing methods, including one that is currently being used in millions of CDMA cell phones. His current research interests include the redesign from first principles of the primary signal processing used in speech recognition systems, and the use of neural networks for the design of these new features.

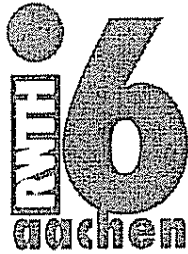
E-mail is the best way to reach me.

morgan@icsi.berkeley.edu

Also, check my [schedule](#).

Last updated November 13, 2003.

Exhibit K



Chair of Computer Science VI Human Language Technology and Pattern Recognition



Prof. Dr.-Ing. Hermann Ney

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Research

Research interests:

- Statistical Modeling and Learning
- Speech Recognition
- Natural Language Processing and Translation
- Computer Vision

Publications

List of Publications  

Most of the recent publications can be downloaded from the publication page.

Teaching

My courses for 3rd or 4th year students are:

- Pattern Recognition and Neural Networks
- Speech Recognition
- Digital Processing of Speech and Image Signals
- Language Modeling
- Statistical Natural Language Processing
- Advanced Topics in Statistical Modeling

See this page for details.

Professional Services

- Associate Editor "IEEE Transactions on Speech and Audio Processing"
- Editorial Board "Computer, Speech and Language"
- Editorial Board "Speech Communication"
- Member of the "Technisches Komitee der DAGM"

Exhibit L



Phil Woodland

Phil Woodland is a Professor of Information Engineering in the Machine Intelligence Laboratory (formerly the Speech Vision and Robotics (SVR) group) and a Professorial Fellow of Peterhouse. He co-ordinates Speech Research Group, and works closely with other staff members of the group Dr Mark Gales, Dr Bi Byrne, and Prof. Steve Young.

Current Research Projects

- HTK Rich Audio Transcription (DARPA EARS funded project)
(local web-pages)
- HTK Version 3

Recently completed projects:

- CoreTex (EU funded: Improving Core Speech Recognition technology)
- Multimedia Document Retrieval (EPSRC funded)

Teaching (2004-2005)

- Masters in Computer Speech, Text and Internet Technology
- Fourth year engineering undergraduates
Module 4F10: Statistical Pattern Processing.
Material available online (local access only)
Module 4F11: Speech Processing.
Material available online (local access only)

Contact Information

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